



Knook

Warminster Petty Sessions.—

Before John Davis and George Temple, esqrs.—At the Petty Sessions in April last, Mr. Thomas Flower, of Knook, and other parties, were summoned by the waywardens of the parish of Heytesbury, for the non-payment of a highway rate of 2s. in the pound, made to meet the expenses arising out of the late litigation between the Waywardens v. Lampard, for the nonrepair of certain highways, known as “Riseway.” Mr. Norris, of Devizes, appeared on behalf of the waywardens, and Mr. Whatman, of Salisbury, for defendant. The case was then fully gone into, and the Bench gave judgment for the waywardens, subject to a case to the Court of Queen’s Bench in which certain points of law raised for the defence, would have to be argued, and the other cases were accordingly adjourned for two months. Since that time Mr. Flower has yielded to the jurisdiction of this Court, abandoned the case, and paid his rate, and the clerk’s costs. On behalf of the waywardens, Mr. Norris now made an application for the further costs of witnesses, and of the Clerk’s costs for the case, &c., but after some discussion the application was refused. Mr. Norris then proposed to go into the other summonses against Mr. James Lampard and Mr. Young, which came on for hearing at the same April court, and which he contended were adjourned for two months. These two cases, however, were not formally called on at that court, and one of them was not mentioned by name; consequently the Clerk contended that they could not have been adjourned.

Mr Norris contended that when these cases were first called he stated to the Bench that there were three summonses by the waywardens of Heytesbury for nonpayment of way rates, and asked to have that against Lampard taken first, whereupon Mr. Whatman expressed a desire to take that against Flower, and Mr. Norris, after saying that as the same facts existed in each case, as the waywardens desired only a fair inquiry, and that as both Mr. Lampard and Mr. Flower had been present at the vestry meeting, when the rate was granted, and had both assented to it, he considered it immaterial which summons was first proceeded upon, and accordingly Mr. Flower’s case was first gone into and determined by the bench in favour of the parish; the then Chairman (the Marquis of Bath), at the time saying that the magistrates determined Mr. Flower’s case in favour of the parish, subject to a case to the Superior Court, as demanded by Mr. Whatman, and that as the same legal points were involved in the other cases they would be adjourned for two months, to allow of the decision of the Superior Court being obtained in the mean time. This, Mr. Norris contended, was a sufficient calling on of Lampard’s case to give the magistrates jurisdiction and authority to adjourn; that in fact the appearance of the parties upon the summonses, without formally entering upon the case, was sufficient, and although the same magistrates were not then upon the Bench as were there on the April Sessions, yet the present Bench was competent to take adjourned summonses, but that they must begin *de novo* with the evidence.

The Bench, after conferring with their clerk, stated they were advised that proceedings in these cases must commence *de novo*, by the issuing of fresh summonses. Mr. Norris was not of this opinion, but after some further discussion he yielded the point.

The cases have since been mentioned at the New Highway Board, which the magistrates' clerk stated was now the only party to enforce payment of any arrears of wayrates, but that Board has, we are informed, declined to interfere. It therefore remains to be seen whether the old waywardens who, under section 43 of the New Act passed out of office after seven days from the appointment of the District Surveyor, can recover them, or whether, under section II., the Highway Board is not the proper authority, as the successors in office, and as having vested in it all such powers, rights, liabilities, capacities, and incapacities, (except the power of making, assessing, and levying highway rates, vested in or attached to any surveyor or surveyors of any parish forming part of the district of such Highway Board).

(Devizes and Wiltshire Gazette – Thursday 9 June, 1864)